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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,546	04/19/2002	Jacques Denko	P21701	8735

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EXAMINER

GARBE, STEPHEN P

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant No.

09/926,546

Applicant(s) **MT**

DENKO, JACQUES

Examiner

Stephen Garbe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/19/02 & 5/23/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 23 May 2002 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. The proposed drawing changes have been not been entered because the added reference characters 8a and 10' are not mentioned in the written description, as required by 37 CFR 1.84(p)(5). The drawing changes will be entered if those reference characters are added to the written description without the addition of new matter.

2. The discussion of "elastic lugs 10" in line 16 on page 3 of the written description is objected to as being inaccurate. It appears that the elastic lugs are elements 9 in Figure 6. Also, the reference number (10) in claim 5 should be amended accordingly.

3. The written description is objected to for failing to discuss the unnumbered elements located on the flap exterior and on the interior of one of the bag walls, as depicted in Figures 3 and 4. In addition, Figures 3 and 4 are inconsistent with one another because Figure 3 does not illustrate an element located on the inside of one of the bag walls. No new matter may be added in response to this objection.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 2 and 4 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no enabling disclosure of a system of hinges or journalled arms which guarantee a correct position before tightening. No new matter may be added in response to this rejection.

6. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no enabling disclosure of a container having a double wall filled with air or gas.

7. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no enabling disclosure of a container having a lateral bellows.

8. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no enabling disclosure of a container forming waterproof pockets on containers.

9. The drawings are objected to under 37 CFR 1.83(a) as failing to illustrate (1) the system of hinges, as recited in claim 2; (2) journalled arms, as recited in claim 2; (3) the second rigid bar being fixed to the rear outer surface of the wall of the envelope, as recited in claim 3; (4) stiffening strips, as recited in claim 7; (5) a double wall, as recited in claim 8; (6) lateral bellows, as recited in claim 9; or (10) waterproof pockets on containers, as recited in claim 10. No new matter may be added in response to this objection.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is indefinite because it cannot be determined what structural features are required by the limitations in this claim. No new matter may be added in response to this rejection.

12. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent for "the journal system of the rigid bars" or for "the flap." Furthermore, it cannot be determined what structural features are required by "the journal system." No new matter may be added in response to this rejection.

13. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent for "the second joint" or for "the opposite edge."

14. Claims 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are indefinite because it cannot be determined what structure is required to meet the claimed limitations.

Claim 10 is further indefinite because it is impossible for a container to be a plurality of pockets on a plurality of containers.

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Mikan, German Patentschrift No. 98,041. Mikan discloses all claimed features including a rubber “envelope,” which is water impermeable, two rigid parallel bars illustrated in Figures 4 and 5, and locking means located at both ends of the bars.

17. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Neves et al., United States Patent No. 1,837,918.

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hüni, United States Patent No. 3,727,829. Hüni discloses all claimed features except for impermeable walls. Note rigid parallel bars 20, 22 fixed to the bag closure flap and mounted on a system of hinges 28, 28. Elements 25 and 26 are means for locking in a tight position and are located at both ends of the bars. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Hüni's walls

impermeable to one or more substances, such as water, because the bag would offer better protection for its contents.

20. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over losif, United States Patent No. 5,428,871 in view of Mikan, German Patentschrift No. 98,041. losif discloses a moisture impermeable bag that is closed by two rigid parallel bars 12 and 14. The bars have a "means for locking in tight position" comprising "foldable tongue" 46 having a "cutout" 52 for confining the end of one of the bars. losif does not disclose locking means at both ends. It would have been obvious to form losif's bars as separate elements having the same locking means at both ends, as taught by Mikan, because losif's bars would have operated satisfactorily either way.

21. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neves et al., United States Patent No. 1,837,918 (Neves). It would have been obvious to provide the edges of Neves's bag with strips of reinforcing material because it would have been obvious to reinforce any part of a bag that needs extra strength.

22. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neves et al., United States Patent No. 1,837,918 (Neves) in view of Ibing, United States Patent No. 3,797,733. It would have been obvious to provide the edges of Neves's bag with strips of reinforcing material, as taught by Ibing at 6 and 7, because it would have been obvious to reinforce any part of a bag that needs extra strength.

23. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mikan, German Patentschrift No. 98,041 in view of DeClements, Jr. et al., United States Patent No. 5,957,583 (DeClements). To the extent that it can be determined what this claim

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requires, it would have been obvious to provide Mikan's bag with a double wall filled with air, as taught by DeClements, because doing so would have allowed Mikan's bag to float, and, thus, be easily retrieved, in the event that it is accidentally dropped into water.

24. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neves et al., United States Patent No. 1,837,918 (Neves) in view of DeClements, Jr. et al., United States Patent No. 5,957,583 (DeClements). To the extent that it can be determined what this claim requires, it would have been obvious to provide Neves's bag with a double wall filled with air, as taught by DeClements, because doing so would have allowed Neves's bag to float, and, thus, be easily retrieved, in the event that it is accidentally dropped into water.


25. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mikan, German Patentschrift No. 98,041. To the extent that it can be determined what this claim requires, it would have been obvious to provide Mikan's bag with lateral bellows because lateral bellows would have allowed it to expand to accommodate various sized content items and because bags with lateral bellows for expansion purposes were old and well-known at the time the invention was made and Official Notice is so taken.

26. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

27. The remaining patents are cited to show other containers having similar features.

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28. Any inquiry concerning this application or proceeding should be directed to Stephen Garbe who can be reached at 703-308-1207. The examiner can normally be reached Monday-Thursday between the hours of 7:15 and 4:45 and alternate Fridays between the hours of 7:15 and 3:45.
29. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on 703-308-2572.
30. The fax phone numbers for Technology Center 3700 are 703-872-9302 for papers filed in response to a non-final Office Action and 703-872-9303 for papers filed in response to a Final Office Action.
31. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-1148.


Stephen P. Garbe
Primary Examiner
Group 3720